

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

UNITED STATES DISTRICT COURT

for the

District of Arizona

Tucson Division

| | |
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| CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA | |
| BY | DEPUTY |

Case No.

CV-19-451-TUC-CKJ

(to be filled in by the Clerk's Office)

Joann Anderson

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Tucson Unified School District

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Jury Trial: (check one) ☒ Yes ☐ No

COMPLAINT FOR EMPLOYMENT DISCRIMINATION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

| | |
|--------------------|----------------------------|
| Name | Joann Anderson |
| Street Address | 5662 South Cactus Wren Ave |
| City and County | Tucson, Pima |
| State and Zip Code | AZ 85746 |
| Telephone Number | 520.278.8070 |
| E-mail Address | mr.seuss2010@gmail.com |

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (*if known*). Attach additional pages if needed.

Defendant No. 1

| | |
|------------------------------------|-----------------------------------|
| Name | Tucson Unified School District |
| Job or Title (<i>if known</i>) | |
| Street Address | 1010 East 10 th Street |
| City and County | Tucson, Pima |
| State and Zip Code | AZ 85719 |
| Telephone Number | 520.225.6000 |
| E-mail Address (<i>if known</i>) | |

Defendant No. 2

| | |
|------------------------------------|--|
| Name | |
| Job or Title (<i>if known</i>) | |
| Street Address | |
| City and County | |
| State and Zip Code | |
| Telephone Number | |
| E-mail Address (<i>if known</i>) | |

Defendant No. 3

| | |
|------------------------------------|--|
| Name | |
| Job or Title (<i>if known</i>) | |
| Street Address | |
| City and County | |
| State and Zip Code | |
| Telephone Number | |
| E-mail Address (<i>if known</i>) | |

Defendant No. 4

| | |
|----------------------------------|--|
| Name | |
| Job or Title (<i>if known</i>) | |
| Street Address | |
| City and County | |
| State and Zip Code | |

Telephone Number _____

E-mail Address (if known) _____

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

| | |
|--------------------|------------------------|
| Name | Cholla High School |
| Street Address | 2001 W Starr Pass Blvd |
| City and County | Tucso, Pima |
| State and Zip Code | AZ 85713 |
| Telephone Number | 520.225.4000 |

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to (check all that apply):

- ☐ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

- ☒ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☒ Other federal law (specify the federal law):

Section 504 of the Rehabilitation Act of 1973. 29 U.S.C. § 701 et seq. ("Rehabilitation Act"), and to correct unlawful employment practices on the basis of disability to vindicate Plaintiff's rights, and to make her whole.

Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331 as this matter involves a federal question under the Rehabilitation Act. and the ADA.

The unlawful employment practices described herein were committed within Pima County, State of Arizona. Accordingly, venue in this Court is proper pursuant to 28 U.S.C. § 1391(b).

- ☐ Relevant state law (specify, if known):

Arizona Civil Rights Act, A.R.S. §41-1401 et seq.; Arizona Administrative Code Rule 1-1-101; Arizona Administrative Procedure Act, A.R.S. §41-1001 et seq.

☐

Relevant city or county law *(specify, if known)*:

The defendant's internal rules and policies.

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

- ☐ Failure to hire me.
- ☐ Termination of my employment.
- ☐ Failure to promote me.
- ☒ Failure to accommodate my disability.
- ☒ Unequal terms and conditions of my employment.
- ☐ Retaliation.
- ☒ Other acts *(specify)*: Hostile work environment

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

On or about Aug 3, 2017 to May 24, 2018

C. I believe that defendant(s) *(check one)*:

- ☐ is/are still committing these acts against me.
- ☒ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

- ☐ race _____
- ☐ color _____
- ☐ gender/sex _____
- ☐ religion _____
- ☐ national origin _____
- ☐ age *(year of birth)* _____ *(only when asserting a claim of age discrimination.)*

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disability or perceived disability (*specify disability*)

Legally blind, Retinitis Pigmentosa

E. The facts of my case are as follows. Attach additional pages if needed.

During my employment by the defendant as an Exceptional Education Teacher Assistant at Cholla High School, the defendant subjected me to different terms and conditions of employment as a consequence of the fact that I am legally blind due to retinitis pigmentosa (hereinafter my "disability.") The defendant also created, and then failed to address, a hostile work environment for me as a consequence of my disability.

I was hired to work at the Cholla High School campus specifically on or about August 2, 2017. My supervisor was department chair Debbie Miceli. At the time I was hired, the defendant was aware of my disability. Between August of 2017 and May of 2018, Laura (last name unknown, "LNU"), a coworker, stated that I was lazy and that she did not want to work with me because she had to do all of my work because of my disability, which was not true. Berta (LNU), a coworker, stated I was lazy and that I could not do my job because of my disability. Jesus Valencia, a coworker, stated I could not do my job due to my disability. Mr. Valencia also told a substitute teacher the nature of my disability; I requested a transfer to another class, but my request was denied.

In February of 2019, I requested additional time to change the diapers of the students as a reasonable accommodation of my disability, but the defendant's teacher, April Ruiz-Alegria denied my request. I also requested a staging area for toileting that would be set up with diapers and necessary supplies, but this was never done.

In August of 2017, I requested that JAWS software be installed on my computer as a reasonable accommodation of my disability, but this was delayed until September. (JAWS software is a screen reader that displays text on a screen and uses synthesized speech to read it aloud so I am able to hear what is on the screen. Screen readers allow me to read text in a MS Word format. Keyboard commands allow me to navigate text on the screen.) Throughout the school year my computer was taken from me on several occasions to fix software and/or hardware problems. This would leave me without my computer for periods of time, and the computer itself was an accommodation I needed in order to do my job. Moreover, the computer would often be returned to me without the software or hardware problem having been resolved. On or about April 11, 2018, I requested JAWS software training and Windows 10 operating system training for my computer as a reasonable accommodation for my employment. The training was not provided; there was only an assessment. JAWS was not compatible with the defendant's time clock and MIPS billing program. (At times, Adam Bernard, a coworker, would help me with MIPS.) Additionally, JAWS did not work with .pdf documents, so I often could not read documents that were emailed to me (or documents that were included as attachments to email and/or Word documents.) Moreover, Windows 10 training was not provided. I was provided with a KNFB reader, but it was not installed properly and would not read text aloud. Further, it was not compatible with the JAWS software.

As a consequence of the delayed installation of the software, my intermittent possession of my computer, and the limitations of the software, I was often unable to access lesson plans and memoranda and other documents that I needed to be able to access in order to perform my job duties.

The defendant stated that, as reasonable accommodations, I would be allowed to take extra time to access the bathroom and check my blood sugar. Additionally, I was told students in wheelchairs would leave class a few minutes early in order to get to the bus safely, and that I would walk ambulatory students out with them holding on to my elbow. None of these things happened.

Also on or about April 11, 2018, I requested labels for the filing cabinets that I would be able to read as a reasonable accommodation for my employment. These labels were never provided.

I requested a reasonable accommodation in the form of having staff members state out loud when they would leave the room so that I would know who was present and who was not. I further requested that what was happening in the room be stated out loud, so that I would know how many students were in the room and what they were doing. Carol Clarke, the defendant's EEO compliance officer and ADA

coordinator, stated that these accommodations would be made, but they only lasted one week.

This list of examples of the ways the defendant created and failed to address a hostile work environment, subjected me to terms and conditions of employment that were different from those of other employees relevantly similarly situated, and the ways the defendant failed to make reasonable accommodations, is not comprehensive, but conveys the "flavor" of the conditions of my employment between August of 2017 and May of 2018.

Since I left Cholla High School in May of 2018, I have learned that several individuals have continued talking about me, my disability, and my efforts to obtain reasonable accommodations and other appropriate relief in view of my disability.

Additionally, see the attached copy of my most recent charge of discrimination.

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)*

July 27, 2018 (most recent)

- B. The Equal Employment Opportunity Commission *(check one)*:

☐

has not issued a Notice of Right to Sue letter.

☒

issued a Notice of Right to Sue letter, which I received on *(date)* 6/14/2019 .

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

☐

60 days or more have elapsed.

☐

less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

1. \$200,000.00 for discrimination and hostile work environment;
 2. \$200,000.00 for compensatory damages relating to emotional distress;
 3. \$500,000.00 for punitive and exemplary damages;
 4. Reasonable attorneys' fees and costs; and
 5. For such other relief, the Court deems appropriate.
-

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 9/5/2019

Signature of Plaintiff

Printed Name of Plaintiff Joann Anderson

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

10/10/2019 10:10:10 AM

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Please mail or fax this form to the Concentra address or fax number indicated below. Thank you for your cooperation.

Concentra Address: Concentra Medical Center
4500 S. Park Ave. Suite 5
 Tucson, AZ 85714

Concentra Fax: _____

Concentra**Fitness-for-Duty/Return-to-Work Medical Release Form**Patient/Applicant Name: Jean AndersonCompany Name: TUSA

Job title: _____

Exam Date: 7.15.2019Job description is: ☐ attached ☒ not attached

Dear Doctor:

Your patient works in the job named above. Your patient's employer has asked us to assess whether your patient can safely carry out the essential functions of that job. In order to make an accurate determination, we would need more medical information, and would very much appreciate it if you could help by providing the information indicated below. Please understand that your patient will not be able to return to his/her job until we receive and review the data requested.

Thank you in advance for your help.

Patient Consent for Release of Medical Information

I authorize my physician/clinic to provide all of the medical information requested by Concentra.

Patient Signature: _____

Date: _____

Witness: _____

Statement of Treating Physician

Please list all relevant medical conditions that for which this patient is currently under your care:

Retinitis pigmentosa with vision loss
cataracts bilaterally approx. 10 years the (L)

Please list all the medications which you are currently prescribing for this patient:

Diabetic Type II - controlled
Epilim / Phenytoin - seizure prophylaxis

- ☐ It is my medical opinion that my patient can carry out the essential functions of the job.
- ☐ The medications my patient is taking do not affect his/her ability to safely carry out the duties of that job.
- ☐ The patient may return to work with the following restrictions:

patient does not meet vision requirements for the position
she has functioned in the position only with accommodations for the past 8 yrs

Date: _____

Please authenticate with office stamp or UPIN

Physician Name: _____

Physician Signature: _____

Street: _____

City: _____

Phone: _____

Concentra Medical Center

4500 S. Park Ave. Suite 5

Tucson, AZ 85714

Fax: _____

Zip: _____

520-889-9572